

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

John Wilson,
Petitioner-Appellant,

v.

Warren County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-91-0134
Parcel No. 33-020-12-0010

On October 12, 2011, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant John Wilson was self-represented. The Warren County Board of Review designated County Assessor Brian Arnold as its representative. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

John Wilson is the owner of a residential, single-family property located at 304 E Main Street, Ackworth, Iowa. The property is a one-story home, built in 1880, and has 1126 square feet of total living area. The property condition is rated as below normal and does not have a basement. Additionally, the dwelling has a 566 square-foot, wrap-around deck; an 80 square-foot enclosed porch; and a 126 square-foot open porch. Other site improvements include a 720 square-foot detached frame garage built in 1978 and a 1440 square-foot steel utility building built in 2009. The site is 2.617 acres.

Wilson protested to the Warren County Board of Review regarding the 2011 assessment of \$93,700, which was allocated as follows: \$21,100 in land value and \$72,600 in improvement value. His claim was based on the following grounds: 1) that the assessment was not equitable as compared

with the assessments of other like property under Iowa Code section 441.37(1)(a); 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(b) and asserting the correct value was \$61,100, allocated as \$11,100 in land value and \$50,000 in improvement value; 3) that there is an error in the assessment under section 441.37(1)(d), stating “pole building classified as garage storage and replaces four buildings of approximately same square footage”; and 4) that there has been a change downward in the value since the last assessment under 441.37(1) and 441.35(3). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass’n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim.

The Board of Review denied the protest.

Wilson then appealed to this Board reasserting his claims and asserting the correct value was \$70,500, allocated as \$10,500 in land value and \$60,000 in improvement value. Wilson’s evidence and testimony was based solely on equity.

On his protest form to the Board of Review, Wilson listed six properties as equity comparables. He provided partial property record cards from the assessor’s web-site for each property. The properties are: 13972 240th Avenue, 5568 Highway R-57, 17 Columbia Street, 20 Elm Street, 505 S E Street, and 18321 Delaware Place. The six properties are all one-story homes with above-grade living area ranging from 928 to 1156 square feet. They were built between 1910 and 1950 and have site sizes ranging from 0.19 to 3.65 acres. Two of the six properties have a basement area; the remaining four have no basement, similar to the subject. While the properties appear to be reasonably comparable in terms of style, size, and age; the condition of the properties is unknown.

Only two of the properties have sold since 2009. The property at 17 Columbia Street sold for \$65,000 in October 2009; however, this sale was from a bank which acquired it as the result of a foreclosure. The 2010 assessment on this property was \$77,700. The second property, located at 505 S E Street, sold in December 2010 for \$78,000. The 2011 assessment on this property was \$76,700.

While we can consider the sale price of the property at 505 S E Street as its market value, Wilson did not provide the market value of the remaining comparables to develop a ratio analysis. Due to a lack of information regarding the condition of the properties submitted as equity comparables, as well as the lack of a ratio analysis, we give this information little consideration.

Wilson also testified that neighboring sites were assessed differently than his site. His neighbor to the north, Donald Freeman, (property address 202 E Main Street) has a 1.508 acre site compared to Wilson's 2.617 acre site. Freeman's site is assessed at \$21,600, and Wilson's site is assessed at \$21,100. Although larger, Wilson's site is actually assessed for less.

We note both of the sites were assessed using a front-foot unit method, both have similar street frontage, and both had topography adjustments. The Freeman site had a 3% topography adjustment, while Wilson's site received a 17% topography adjustment. This is a critical point, as Wilson was also concerned that a portion of his site (roughly the south half) is sloped making it un-useable and prone to flooding. It appears the assessor had recognized this detriment and applied an adjustment to reflect the lower value of the site.

Additionally, Freeman owns two vacant parcels which abut both the Freeman and Wilson improved sites, as seen on Exhibit F – an aerial map. These sites are 5.9 and 1.75 acres in size and do not have any street frontage. Because they do not have street frontage, they are not assessed on a front-foot basis and cannot be compared to the subject property.

Warren County Assessor Brian Arnold testified on behalf of the Board of Review. The Board of Review provided a spreadsheet of the equity comparables presented by Wilson, as well as photos of the subject property and some aerial maps. Arnold explained that the subject site was valued on a front-foot basis. He also testified that new construction, specifically the subject's new deck and outbuilding, were picked up for the January 1, 2011, assessment which would have contributed to an increase in value.

We note that Wilson asserted during his opening and closing statements that Arnold met with the Board of Review after his hearing. There is nothing in the record to substantiate this claim. Arnold did mention that he met with the Board of Review prior to the start of the session to generically explain a sample equity spreadsheet and how to read it, as this format was used for many of the hearings.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject property is inequitably assessed.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Wilson provided six properties he considered to be equity comparables; however, it is unknown if they offer similar condition, and he did not provide a ratio analysis. Wilson did not show inequity under the tests of *Maxwell* or *Eagle Foods*.

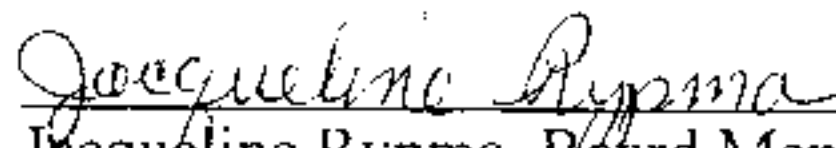
We therefore affirm the assessment of John Wilson’s property as determined by the Warren County Board of Review, as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of John Wilson’s property located at 304 E Main Street, Ackworth, Iowa. of \$93,700, as of January 1, 2011, set by the Warren County Board of Review, is affirmed.

Dated this 21 day of November, 2011


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

John Wilson
304 E Main Street
Ackworth, Iowa 50001
APPELLANT

Brian Arnold
County Assessor
301 N Buxton, Suite 108
Indianola, Iowa 50125
REPRESENTATIVE FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>11-21</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	